

REMARKS

Claim 1 was rejected under obviousness-type double patenting in view of claims 1-23 of U.S. Patent No. 6,666,133. Claim 1 has now been canceled. Therefore, the basis for this rejection has been removed.

Claim 1 also was rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 4,939,989 to Zacharias. Again, since Claim 1 has now been canceled, there no longer is any basis for this rejection.

New claims 2-22 have been added. Applicant respectfully submits that the claims added by amendment are allowable over the references cited in the parent application, and in particular Zacharias, U.S. 4,939,989.

Claim 2 recites, among other things, "a second annular frame concentrically rotatably mounted below and on said first frame, said second frame having a permanent arcuate opening wide enough to allow the tree trunk to pass therethrough into the central area." In contrast, the device disclosed by Zacharias does not teach, disclose or suggest the above-emphasized limitations.

Zacharias teaches a second frame, formed from sections 56, that revolves around a first frame 18, formed from sections 20,22,24. However, the second rotatable frame is endless, not a rotatable frame that has a permanent arcuate opening as recited in independent claims 2 and 16. For example, Zacharias teaches "the ring or rack gear sections 56 move about the sections 20, 22 and 24 when sections 22 and 24 are closed with the *leading end of each rack gear section 56*

abutted against the trailing end of the rack gear section 56 disposed forwardly thereof." Col. 4, lines 62-66.

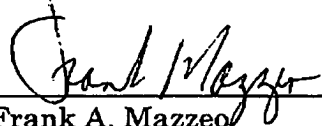
Further, the second frame 56 of Zacharias is not mounted below the first frame as recited in claims 2 and 16. Instead, as best seen in Figs. 5 and 6 of Zacharias, the rotatable frame 56 is coplanar with the first frame 18 and actually rotates around the outer circumference of the first frame 18. For this additional reason, independent claims 2 and 16 are not anticipated by or rendered obvious in view of Zacharias.

Applicant's new claims recited additional structural features not taught, disclosed or suggested by Zacharias. For example, claims 5 and 16 recite "a third annular frame fixed above and to said first frame." Claim 6 recites, "said third frame has a permanent arcuate opening that is wide enough to allow the tree trunk to pass therethrough into the central area, and has a diameter greater than the diameter of said first frame. Claims 7 and 17 recite, "wherein said third and first frames successively contact the radiating arms of the tree and fold the arms upwardly and inwardly when the apparatus encircles the base of the tree trunk and traverses vertically upwardly to the top of the tree." Zacharias is devoid of any reference or suggestion to a third frame as recited in the aforementioned claims.

In view of the aforementioned remarks, applicant believes that claims 2-22 are new, useful and non-obvious. An early notice of allowance is earnestly solicited.

Respectfully submitted,

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